Supreme Court, U.S.
FILED
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Case Number: _____

In The Supreme Court Of The United States

2004 Term

John Corbett McCombs,
Petitioner,

v.

V. Frank Desguin, as Charlotte County Property Appraiser, et al.,
Respondents,

On Petition For A Writ Of Certiorari To The District Court of Appeals, Second District of Florida
Case No.: 2D03-1316

Petition For Writ of Certiorari

Filed by:

John Corbett McCombs *
c/o non-domestic
1215 Clearview Drive; near:
Port Charlotte, Florida [33953-2605]
Phone: (941) 627-6859

* Without agent or representative

Questions Presented For Review

This Petitioner's God-given, Constitutionally secured rights have been improperly disfranchised by the State of Florida, including many of the States branches and public officeholders. Without authority Respondents, et al., have denied one of "The People" domiciled within Florida's borders, a Florida state Citizen, the secured rights pursuant to the Constitution of the United States of America (C.U.S.A.), the Florida Constitution (F.C.), and pertinent supreme law as set forth by the United States Supreme Court ruling clarifying such law regarding the following:

C.U.S.A.: Article I, Sec. 10, prohibited laws; Article VI, clause 2, as to the supremacy clause on treaties made by the United States and Acts of Congress, and rights that spring there-from; Amendment XIV, Sec. 1, as to due process of law and equal protection of law; including but not limited to Title 42 U.S.C. Sections 1982 and 1983, and Amendment X; as such affects the rights and remedies of this Petitioner, and

F.C.: Article I, Sec. 1, political power and rights of the people; Article I, Sec. 2, inalienable rights of the people, Florida state Citizens; Article I, Sec. 5, right to redress of grievance; Article I, Sec. 9, right to due process of law; Article I, Sec. 10, prohibited laws; Article I, Sec. 21, right to access to the courts; Article I, Sec. 22, right to trial by jury; Article II Sec. 3, separation of powers; Article II Sec. 8, the right...against official abuse; Florida Statutes 2.01 and 6.01; "pro se" Petitioner was not afforded the opportunity to be heard and present supporting evidence in an evidentiary hearing, or trial, in violation of the principles of law stated in Haines v. Kerner, 404 U.S. 519 (1972).

By what authority were the aforementioned rights of Petitioner denied and disfranchised with respect to the declaratory judgment Petitioner sought?

List Of Parties

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner John Corbett McCombs
c/o non-domestic
1215 Clearview Drive; near:
Port Charlotte, Florida [33953-2605]

Respondents: V. Frank Desguin, Property Appraiser
of Charlotte County, Florida; through Agent:
John L. Polk, Esq.
P. O. Box 511221
Punta Gorda, FL. 33951

Vickie Potts, Tax Collector of Charlotte
County; through Agent:
Phillip Jones, Esq.
18501 Murdock Circle, Sixth Floor
Port Charlotte, FL. 33948

Board of Commissioners of Charlotte County,
Florida, through Agent: Janette S. Knowlton,
Assistant Charlotte County Attorney,
18500 Murdock Circle
Port Charlotte, FL. 33948

(Respondent Parties Continued)

Jim Zingale, Executive Director
Department of Revenue of the
State of Florida; through Agent:
Mark T. Aliff, Assistant Attorney General
of the State of Florida,
PL 01, The Capitol
Tallahassee, FL. 32399-0150

Table of Contents

	page
Opinions Below	1
Jurisdiction	2
Constitutional And Statutory Provisions Involved	3-5
Statement Of The Case	6-13
Reasons For Granting The Writ	14-15
Conclusion	16

Index To Appendices

Appendix A. ... Denial from Florida Supreme Court 3-1-'04

Appendix B. ... Order from Appeals Court 01-02-'04

Appendix C. ... Order from Appeals Court 11-14-'03

Appendix D. ... Order from Appeals Court 10-01-'03

Appendix E. ... Order from Circuit Court 02-07-'03

Appendix F. ... Special Master Exemption/ Recommendation

Appendix G. ... Declaration of Domicile

Appendix H. ... Treaty of Amity, Settlement and Limits

Appendix I. ... Swamp and Overflowed Lands Act of 1850

Appendix J. ... F.C. Article 17 section 6.

Appendix K. ... Land Patent #7

Appendix L. ... Deed No. 11844

Appendix M. ...Abstract/ Chain of Title of Petitioner

Appendix N. ... Map and Identification of Property

Appendix O. ... Declaration of Acceptance

Appendix P. ... 1891, Laws of Florida

Appendix Q. ... Florida Const., 1838, Art. I.

Table Of Authorities Cited

Cases	Page(s)
Abruzzo v. Haller, 603 So.2d 1338 (Fla. App. 1 Dist. 1992)	7
Boyd v. U.S., 116 U.S. 616 (1886)	7
Boyton v. State, 64 So.2d 536 (Fla. 1953)	10
Broward v. Mabry, 50 So. 826 (Fla. 1909)	12
Chisholm v. Georgia, 2 U.S. 419 (1793)	10
Furst v. Blackman, 744 So.2d 1222 (Fla. App. 4 Dist. 1999)	9
Gibbons v. Ogden, 22 U.S. 1 (1824)	10
Kittel v. Trustees of the Internal Improvement Fund, 139 Fed. Rep. 941 (C.C. N.D. Fla. 1905)	11-12
Mallory v. Harkness, 923 F. Supp 1546 (S.D. Fla. 1996)	8

Marbury v. Madison, 5 U.S. 137 (1803) 11
May v. Holly, 59 So.2d 636 (Fla. 1952) 8
Peregood v. Cosmides, 663 So.2d 991 (Fla. App. 5 Dist. 1995) 7
Platt v. General Development Corp., 122 So.2d 48 (Fla. App. 2 Dist. 1960) 8
R.C.B.S. v. Atlantic Beach, 178 So.2d 906 (Fla. App. 1 Dist. 1965) 8
Sanders v. Alford Bros. Co., 111 So. 278 (Fla. 1926) 12
Sherar v. Cullen, 481 F.2d 945 (9th Cir. 1973) 13-14
State, Dept. of Ed. v. Glasser, 622 So.2d 1003 (Fla. App. 2 Dist. 1992) 8
Summa Corp. v. California, 466 U.S. 198 (1984) 10
Trustees of Internal Improvement Fund v. Pineta, 282 So.2d 126 (Fla. App. 3 Dist. 1973) 8-9
U.S. v. Arredondo, 6 Peters 691 (1832) 12
U.S. v. Schooner Peggy, 1 Cranch 103 (1801) 7
Ware v. Hylton, 3 U.S. 199 (1796) 7
Wilcox v. Jackson, 13 U.S. 498 (1839) 12

STATUTES AND RULES
Florida Statutes 6.01 12
Florida Statutes Chapter 86 6, 7, 16
Florida Statutes 90.201-90.202 7

OTHER
The unanimous Declaration of the thirteen united States of America 16
Florida Constitution of 1838 6
74 Am. Jur. 2d Sections 15-36 7

In the Supreme Court Of The United States On Petition For Writ Of Certiorari

Petitioner respectfully requests that a writ of certiorari be issued to review the judgment below.

OPINIONS BELOW

[X] For cases from state courts:

The opinion of the highest state court not to review the merits appears at Appendix D to the petition and is

[X] reported at 2D03-1316; or
[ ] has been designated for publication but is not yet reported; or
[ ] is unpublished.

The opinion of the 20th Judicial Circuit court appears at Appendix E to the petition and is

[X] reported at: 02-737-CA; or
[ ] has been designated for publication but is not yet reported; or
[ ] is unpublished.

Jurisdiction

[X] for cases from **state courts:**

The date on which the highest state court decided my case was March 1st, 2004.
A copy of that decision appears at Appendix A.

[ ] a timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying the rehearing appears at Appendix _____.

An extension of time to file the petition for writ of certiorari was granted to and including _____ (date) on _____ (date) an Application Number _____.

The jurisdiction of this Court is invoked under 28 U.S.C. section 1257 (a).

This petition contains federal question(s).

Additionally, this Court has jurisdiction to review this action in that the Petitioner's appeal was denied by the Second District Court of Appeals of Florida ruling "PER CURIAM AFFIRMED" without opinion, making the second District Court of Appeals the court of last resort in Florida State pursuant to the Florida Constitution, Article V, Section 3(b), in that there is no provision therein for review in the Supreme Court of Florida.

Constitutional And Statutory Provisions Involved

United States Constitution, Article I, Section 10:

No State shall enter into any Treaty, Alliance, or Confederation; and... pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts...

United States Constitution, Article VI, clause 2:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.

United States Constitution, 10th amendment:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

United States Constitution, 14th amendment:

Sec.1.... nor shall any State.... deny to any [Citizen] within its jurisdiction the equal protection of the laws.

Florida Constitution (1968);

Article I:

Section 1. - All political power is inherent in the people. The enumeration herein of certain rights shall not be construed to deny or impair others retained by the people.

Section 2. - All natural persons are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, to be rewarded for industry, and to acquire, possess and protect property;...

Section 5. - The people shall have the right peaceably to ... petition for redress of grievances.

Section 9. - No person shall be deprived of life, liberty or property without due process of law...

Section 10. - Prohibited laws. No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

Section 12. - The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures ... shall not be violated.

Section 17. - Excessive fines, cruel or unusual punishment, attainder, forfeiture of estate, indefinite imprisonment, and unreasonable detention of witnesses are forbidden.

Section 21. - The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

Section 22. - The right of trial by jury shall be secure to all and remain inviolate. The qualifications and the number of jurors, not fewer than six, shall be fixed by law.

Section 23. - Every natural person has the right to be let alone and free from government intrusion into the persons private life except as otherwise provided herein.

Article II:

Section 3. - The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers

appertaining to either of the other branches unless expressly provided herein.

Section 8. - Ethics in government. A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. ...

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

Article X:

Section 13. – Sovereign immunity.

Florida Statutes:

2.01- Common law and certain statutes declared in force.-the Common and statute laws of England which are of a general and not a local nature, with the exception hereinafter mentioned, down to the 4th day of July, 1776, or declared to be of force in this state; provided, the said statutes and common law be not inconsistent with the Constitution and laws of the United States and the acts of the Legislature of this state.

6.01- Assent to terms of admission into the union. The State of Florida assents as by the statute approved July 25, 1845, to the terms of admission of this state into the Confederacy and Union of the United States, and to the provisions of the Acts of Congress respecting the public lands of the United States in this state.

Statement of the Case

This petition arises in relation to error originating in the trial court "Order Granting Motion to Dismiss" with prejudice, rendered February 7, 2003, the Petitioner's trial court cause involves injury to the Petitioner, breach of Constitution(s) and conflict of laws; between particular Florida State "laws", rules, and Statutes –versus- the organic and amended Constitution of Florida, Federal questions regarding the Constitution of the United States of America, the organic Treaty of Florida, Acts of Congress, and many cited United States Supreme Court decisions as the Supreme Law of the Land. The Petitioner hereby invokes his reserved God-given rights pursuant to the 1838 organic, in particular Art. I, Secs.1, 26 & 27, and amended Florida Constitution(s).

The three particular judges representing the State of Florida's Second District Court of Appeal failed to act consistent with their duty under the Florida Constitution and (Federal question) the Constitution of the United States of America and instead, on October 1, 2003, rendered a "PER CURIAM AFFIRMED" decision without opinion.

On November 14, 2003, such court dismissed Petitioner's Motion for Rehearing as untimely. Said ruling is inconsistent with the Florida Rules of Court with respect to untimeliness, and said court failed to follow the standards of appellate review, noticed to such court (as herein cited) with respect to declaratory judgments, Florida Statutes Chapter 86.

Also, said judges of said court violated their loyalty oaths by denying Petitioner, one of the sovereign people of Florida, a Florida state Citizen, his constitutionally secured

inviolate rights, namely: to be heard by trial by jury in judicial proceeding pursuant to Florida Statutes Chapter 86.

The Second District Court of Appeal, by rendering "PER CURIAM AFFIRMED" without opinion, is the court of last resort in the State pursuant to the Florida Constitution (1968) Article V, Section 3(b), in that there is no provision therein for review to the Florida Supreme Court subsequent to such ruling.

The trial court erred in its failure to take judicial notice pursuant to Florida Statutes 90.201-.202 of the Federal question regarding the Supreme Court of United States of America's decisions relating to: conflicts between Treaty law and the State laws, see Ware v. Hylton, 3 U.S. 199 (1796) and 74 Am.Jur. 2d Secs.15-36; rights that spring from a Treaty and are bound by said Treaty, see U.S. v. Schooner Peggy, 1 Cranch 103 (1801), Treaty of Amity, Settlement, and Limits (T.A.S.L.); Acts of Congress with respect to the disposition of public lands, Swamp and Overflowed Lands Act of 1850 (S.O.L.A.); the Supreme Law of the Land; Constitutional prohibitions with respect to the States; Congressional pre-emption; cognizance of the court's primary duty to protect the God-given inalienable rights of the Citizen- "Obsta Principiis", see Boyd v. U.S., 116 U.S. 616 (1886), and in the judges' failure to adhere to loyalty oaths taken by such judges.

The trial court erred by focusing on the irrelevant and immaterial issues raised by the Respondents while excluding and ignoring Petitioner's bona fide issues; unconstitutionality of certain Florida Statutes; and breach of contract of said Respondents pursuant to Abruzzo v. Haller, 603 So.2d 1338 (Fla. App. 1 Dist. 1992) and Peregood v. Cosmides, 663

So.2d 991 (Fla. App. 5 Dist. 1995); both of which have caused injury to the Petitioner, and said issues are yet to be heard, in an evidentiary hearing or trial, determined, and declared in law by declaratory judgment.

The trial court erred by allowing the Senior Assistant Attorney General to enter papers in the judicial proceeding where he is only allowed by the cited case law, to be "heard." The Attorney General erred as there is no statutory duty imposed upon him to defend all constitutionally challenged statutes, as such raises a Federal question, pursuant to Mallory v. Harkness, 923 F. Supp. 1546 (S.D. Fla. 1996).

The error of the trial court was continued and compounded by the error of the Second District Court of Appeal, in that both failed to follow the standards of appellate review with respect to declaratory judgments: "test of the sufficiency of the complaint," R.C.B.S. v. Atlantic Beach, 178 So.2d 906 (Fla. App. 1 Dist. 1965), "essential elements of a proceeding for declaratory judgment", Platte v. General Development Corp., 122 So.2d 48 (Fla. App. 2 Dist. 1960), "The decree of the lower court left the *Petitioner* entirely in the dark as to the grounds upon which the bill was dismissed... the parties have a right to know the reasons which motivated the action of the courts.", May v. Holly, 59 So.2d 636 (Fla.1952), "To extent law violates express or clearly implied mandates of Constitution, law must fall, not merely because courts so decide, but because Constitution is authority superior to both legislature and judiciary.", State, Dept.of Ed. v. Glasser, 622 So.2d 1003 [10-12] (Fla. App. 2 Dist. 1992); and "Complaints...involving parties' respective claims to ownership of same land to some extent, made case for declaratory judgment...because of expressed doubt of

plaintiffs regarding their rights under deeds.", Trustees of the Florida Internal Improvement Fund v. Pineta, 282 So.2d 126 (Fla. App. 3 Dist. 1973).

An appeal to the Twentieth Judicial Circuit Court in and for Charlotte County, Florida, was made from the denial of the Charlotte County Value Adjustment Board, where the Petitioner's Constitutionally secured rights were also alienated and State of Florida Statutes were held to be the "Supreme Law of Charlotte County", raising a Federal question, as is apparent from a review of the "Special Masters Exemption/ Recommendation", see Appendix F, which was adopted by the Value Adjustment Board. Said VAB denial constitutes full exhaustion of Petitioner's administrative remedy.

All of the Judges involved and all the Respondents appear to be acting in concert to protect the State of Florida's putative property taxation police powers, presumed, by Florida's courts, to be superior to Petitioner's right to true property ownership, even to the extent that they are willing to violate their sworn oaths and primary duty to the Constitution(s) to protect the indefeasible rights of "the people."

This first impression "pro se" petition for writ of certiorari is sought on the error of the appeals court affirming, without opinion, the lower courts "Order Granting Motion to Dismiss" with prejudice, as a gross abuse of discretion, as an unwarranted extreme sanction, as a failure to act consistent with the standards of appellate review with respect to declaratory judgments, and in violation of the Petitioner's inalienable constitutionally secured, and reserved, rights as one of the people, acting in his sovereign capacity

known as a Florida state Citizen, pursuant to Furst v. Blackman, 744 So.2d 1222 (Fla. App 4 Dist. 1999), and Boynton v. State, 64 So.2d 536, 554 (Fla. 1953).

This Court should note that Petitioner's cause is a case of first impression since there is no comparable Florida case law: on the issue of Treaty law being paramount to State law; on the issue of Acts of Congress being paramount to State law; on the issue of Congressional pre-emption being paramount to State law; on the issue of Petitioner's indefeasible ownership of said patented lands, whereby homestead property secured by perfected consummate legal title, is excluded from any/all subsequent acts of Florida's legislature, cannot be collaterally attacked, and "forever" cannot be taken by the State, et al.; and on the issue of true property ownership connected by and pursuant to the organic Treaty, letters patent, #7, issued by the United States of America, Deed #11844 issued by Florida state, and through abstract-chain of deeds or titles, to one of "The People", acting in his sovereign capacity, known as a Florida state Citizen, which is very similar in nature to the decisions stated in Chisholm v. Georgia, 2 U.S. 419, 453-479 (1793), Gibbons v. Ogden, 22 U.S. 1, 210-211 (1824) and Summa Corp. v. California, 466 U.S. 198, 200-209 (1984).

This cause is similar to Summa, id., in that, although The State of Florida was granted the Land by Patent #7, it was thereby held in trust for the public until acquired by the first purchaser of a portion, or all, of said land. This first purchaser of the Land in question was Hamilton Disston. Disston acquired the said Land by contract known as Deed No. 11844, whereby Disston, Disston's agents, heirs and assigns, forever, have held title to said lands in "absolute, indefeasible estate in fee simple". Disston, was the first

intended beneficiary as holder in due course according to the terms and intention of the king of Spain, by the Treaty of Amity, Settlement and Limits. The State of Florida in Deed No. 11844, makes no reservation of rights whatsoever, which is similar with respect to the State of California's want of reservation of rights in Summa, id. Disston, Disston's agents, heirs and assigns forever are then, by said 1883 contract, "absolute, indefeasible" owners of said Land, which cannot be impaired by any subsequent, 1891, "laws" passed by legislative fiat, as such "laws" are impairments of the obligation of the State's own contract, and repugnant to both F.C. and C.U.S.A., Article I section 10. See Marbury v. Madison, 5 U.S. 137 (1803). Petitioner hereby makes his claim to said rights as an "assigns, forever," to the rights granted by said contract to Disston, and stands in his shoes.

The Petitioner's cause is a matter of great public importance as Petitioner challenges the constitutionality of the Florida Legislatures' authority to pass repugnant "laws" which impair the obligation of one of Florida's own contracts, specifically prohibited by Article 1 section 10 of both Florida's and the U.S. Constitutions, whereby the Florida Legislature is specifically prohibited from passing any "ex post facto law" which also impairs the obligation of contract, specifically when a "creature of the State", Florida's Trustees of the Internal Improvement Fund, created and signed said contract; ie. Deed No. 11844, signed by Florida Governor Bloxham, and several of his cabinet members on March 5, 1883. See Appendix L., and take judicial notice that, "...the power of one Legislature is no greater than another. Where the power of the subsequent one is limited, it results from the fact that the act of the first is of such character that the organic law renders it inviolable through constitutional limitations covering the subject.", Kittel v.

Trustees of the Internal Improvement Fund, 139 Fed. Rep. 941, 952 (C.C. N.D. Fla. 1905). Said contract specifically provides that the Trustees of the Internal Improvement Fund's authority is through the Act of Congress of September 28, 1850, "The Swamp and Overflowed Lands Act", see Appendix I., and agrees "to sell and convey by good and sufficient deeds, conveyances, and assurances... ... have granted, bargained and sold, and by these presents do grant, bargain, sell and convey..."an absolute, indefeasible estate in fee simple"... to Hamilton Disston, his agents, heirs, and assigns forever." Petitioner, as an "assign", claims his reserved rights to true ownership, homestead, and pre-emption, which cannot be collaterally attacked by the State of Florida at any time for any reason, pursuant to C.U.S.A. Amendment 10, Wilcox v. Jackson, 13 U.S. 498 (1839), Broward v. Mabry, 50 So. 826 (Fla. 1909), United States v. Arredondo, 6 Peters 691 (1832), and Sanders v. Alford Bros. Co., 111 So. 278 (Fla. 1926).

The Petitioner's cause is a matter of great public importance as the Petitioner challenges the authority of the State of Florida, its branches, its public office-holders, and its political subdivisions, to repeal, or to ignore/pretend to have repealed, Florida Statute 6.01, whereby the territory of Florida assented to the Acts of Congress with respect to the disposition of public lands in order to become a State in the Union of States. Quo Warranto?

The Respondents have continually requested the courts to sanction Petitioner for attorney fees, and the Petitioner repeatedly has responded that the Petitioner is simply exercising his right to have his rights, pursuant to said contracts, determined and declared and to ultimately stop the adverse parties from continuing to economically injure

Petitioner and usurp Petitioner's property ownership rights, et al.

The Petitioner seeks to have this Court declare that Petitioner's God-given rights cannot be threatened or chilled, pursuant to the principle of law stated in Sherar v. Cullen, 481 F.2d 945 (9th Cir. 1973), by Respondent's continuing threats for the court to award attorney fees to Respondents.

For the above reasons setting forth foundation that the Petitioner's cause of action and issues contained therein have not been heard in an evidentiary hearing, or trial, Petitioner's "Amended Petition for Declaratory Judgment" was improperly dismissed with prejudice by the trial court, as a gross abuse of discretion, without bona fide grounds for dismissal. Petitioner was, in fact, denied an appeal without opinion at the court of last resort in the State, without valid grounds or authority, and this petition for writ of certiorari should be granted as a matter of law, to prevent further injury by the travesty of justice imposed upon the Petitioner by the Respondents and Florida's courts, all of which were caused by persons holding offices of public trust in Florida, including the trial and district courts of appeal, which were all acting inconsistent with their oaths and duty, to both Constitution(s), and Laws of Florida.

Reasons For Granting The Petition

The cause for this petition involves a matter of great public interest, namely, that Florida State office-holders are denying the reserved rights and remedies of the Petitioner as one of "The People", as one of the sovereign people, known as a Florida state Citizen, and said office holders are abandoning the Florida Constitution and laws, the United States Constitution and decisions of the United States Supreme Court, as law, without cause or reason, and are acting inconsistent with the essential requirements in law, and by judicial office-holders refusing to correct the error(s) of the trial court when such remedy is sought by Petitioner. The trial court acted in a manner repugnant to the Laws of Florida and the Florida Constitution. The trial court acted in a manner repugnant to the Florida case law cited as the standards of appellate review with respect to declaratory judgment actions, and the trial court misapplied a severe and extreme sanction, dismissal with prejudice, in direct conflict with, and as a gross abuse of discretion, repugnant to Scherar v. Cullen, 481 F.2d 945, 947 (9th Cir. 1973), where "pro se" Petitioner was simply seeking to have his rights under (contracts) treaty, patent, and deeds determined and declared.

The Supreme Court of Florida is without jurisdiction to review this case in that the Florida Constitution, Article V, Section 3, does not provide for such court to review the appellate court's "per curiam affirmed" ruling without an opinion. See Appendix A., Fla. Supreme Court, 3-1-2004.

The Petitioner has suffered continuous injury by the Respondent's acts and in Florida's courts for which this Court must intervene to stop the ongoing injury to Petitioner

and the stigma of the presumption that the Petitioner is a "delinquent property taxpayer", when in reality Petitioner does not consent, and is not liable for said tax, and therefore owes no tax at all, and as said land cannot be "taken" for any subsequent failure to make said de facto tax payment.

If this petition is not granted to stop the ongoing injury to the Petitioner who is one of the people, acting in his sovereign capacity, known as a Florida state Citizen with reserved rights secured and protected by the U.S.A. and Florida Constitutions, a travesty of justice will be allowed to remain that was perpetrated by office-holding persons/subjects that are State of Florida holders of public trust who have signed, sworn, and declared under oath that they would not act in such a manner against the written contracts, known as the Florida Constitution and the Constitution of the United States of America, between public office holders and the specifically designated beneficiaries, "The People".

Conclusion

The Petitioner seeks to confirm in Florida's courts the opinions of the United States Supreme Court with respect to those issues raised by the Petitioner which have already been decided in the U.S. Supreme Court, but have not yet been accepted or decided in Florida's courts. The Petitioner's God-given rights cannot be alienated by the semi-sovereign State of Florida, pursuant to Chisholm, id., and the Declaration of Independence. The Petitioner seeks reversal of the trial and appeals court's rulings, at minimum, as mistakes, repugnant to both written Constitutions, and if this Court cannot, for whatever reason, rule on the merits of the Petitioner's cause of action; ie. that Petitioner's patented property is permanently excluded from taking, and taxation, by the State of Florida and its political subdivisions; then in the alternative, reverse and remand to speedily proceed in the Florida trial court, with Petitioner's cause advanced on the trial court's docket, for bona fide uninterrupted trial by jury, in a judicial court, in law, to resolve all of the issues raised by the Petitioner pursuant to F.S. Chapter 86, Florida's Declaratory Judgment Act, and Petitioner's Amended Petition for Declaratory Judgment.

Respectfully submitted,

John Corbett McCombs

John Corbett McCombs
c/o non-domestic,
1215 Clearview Drive; near:
Port Charlotte, Florida state
[33953-2605]

Date: May 20, 2004

BEST AVAILABLE COPY

SUPREME COURT OF FLORIDA

MONDAY, MARCH 1, 2004

CASE NO.: SC03-2452
Lower Tribunal No.: 2D03-1316

JOHN CORBETT MCCOMBS vs. V. FRANK DESGUIN, ETC., ETAL.

Petitioner(s) Respondent(s)

It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed. See Jenkins v. State, 385 So.2d 1356 (Fla. 1980).

No Motion for Rehearing will be entertained by the Court.

A True Copy
Test:

Signature of Thomas D. Hall (seal of Supreme Court of the State of Florida)
Thomas D. Hall
Clerk, Supreme Court

tc
Served:
JOHN CORBETT MCCOMBS
JOHN L. POLK
JANETTE S. KNOWLTON
MARK ALIFF
HON. MARGARET O. STEINBECK, JUDGE
HON. JAMES BIRKHOLD, CLERK
HON. BARBARA SCOTT, CLERK

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

January 2, 2004

CASE NO: 2D03-1316
L.T. No.: 02-737 CA

John Corbett McCombs v. V. Frank Desguin, Property Appraiser,

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's "motion to rescind in part the order rendered November 14, 2003, with respect to appellant's motion for rehearing as being untimely" is stricken.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:
John Corbett McCombs Mark T.Aliff,Esq. Phillip Jones,Esq.
Janette Knowlton,Esq. John L. Polk,Esq. Brad Bradley,Esq.
Barbara T. Scott, Clerk
es
James Birkhold, Clerk

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327

November 14, 2003

CASE NO: 2D03-1316
L.T. No.: 02-737 CA

John Corbett McCombs v. V. Frank Desguin, Property Appraiser,

Appellant / Petitioner(s), Appellee / Respondent(s)

BY ORDER OF THE COURT:

Appellant's motion for rehearing, clarification and certification with respect to opinion filed October 1, 2003, affirming dismissal of declaratory judgment with prejudice is stricken as untimely.

Appellee, State of Florida, Department of Revenue's motion for appellate attorney's fees and taxable costs is denied.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:
John Corbett McCombs Mark T.Aliff,Esq. Phillip Jones,Esq. Janette Knowlton,Esq. John L. Polk,Esq. Barbara T. Scott, Clerk

es
James Birkhold, Clerk

C

NOT FINAL UNTIL TIME EXPIRES TO FILE
REHEARING MOTION AND, IF FILED, DETERMINED

IN THE DISRTICT COURT
OF APPEAL OF FLORIDA
SECOND DISTRICT

JOHN CORBETT MCCOMBS Appellant, v. V. FRANK DESGUIN, in his Capacity as Property Appraiser, Charlotte County, Florida; VICKIE L. POTTS, in her capacity as Tax Collector, Charlotte County, Florida; Dr. James Zingale, in his capacity as Executive Director of the State of Florida, Department of Revenue; and CHARLOTTE COUNTY BOARD OF COUNTY COMMISSIONERS, Appellees.	)	Case No. 2D03-1316

Opinion filed October 1, 2003.

Appeal from the Circuit Court for Charlotte County; Margaret O. Steinbeck, Judge.

John Corbett McCombs, pro se.

Charles J. Crist, Jr., Attorney General, and Mark T. Aliff, Assistant Attorney General, Tallahassee, for Appellee Department of Revenue.

Phillip J. Jones of Wilkins, Frolich, Jones, Hevia, Russell & Sutter, P.A., Port Charlotte, for Appellee Vickie L. Potts.

Janette S. Knowlton, Assistant County Attorney, Port Charlotte, for Appellee Charlotte County Board of County Commissioners.

John L. Polk, Punta Gorda, for Appellee V. Frank Desguin.

PER CURIAM.

Affirmed.

ALTENBERND, C.J., and SALCINES and DAVIS, JJ., Concur.

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR CHARLOTTE COUNTY, FLORIDA CIVIL ACTION

JOHN CORBETT MCCOMBS,
Plaintiff,

Vs. Case No. 02-737-CA

V. FRANK DESGUIN, as Property Appraiser Of Charlotte County, Florida, And VICKIE L. POTTS, as Tax Collector Of Charlotte County, Florida, and The Board of Charlotte County Commissioners; ADAM CUMMINGS, MATTHEW D. DEBOER, THOMAS C. D'APRILE, MAC V. HORTON And SARA DEVOS.

Defendants.
/

ORDER GRANTING MOTION TO DISMISS

THIS MATTER came before the court on defendant's Motion to Dismiss. The court having reviewed the file, heard arguments of counsel and plaintiff, reviewed the Joint Memorandum of Law in support of defendants' Motion to Dismiss, and the court being otherwise fully advised in the premise, the Court finds that:

1. Plaintiff's properties in Charlotte County are not immune from ad valorem taxation from the State perspective. Canaveral Port Authority v. Department of Revenue, 690 So.2d 1226 (Fla. 1996).

2. That Plaintiff's properties are not entitled to immunity from ad valorem taxation as former Federally held lands. Oklahoma Tax Commission v. Texas Co., 336 U.S. 342, 695 Ct. 561 (1949) and Robberts v. Northville Township, 22 Fed. Appx. 527, 2001 WL 1450817 (6th Cir. Ct of Appeal's 2001).

3. Plaintiff has not alleged or shown himself entitled to an exemption from ad valorem taxation. Capitol City Country Club v. Tucker, 613 So.2d 448 (Fla. 1993).

4. That plaintiff cannot amend his complaint to plead entitlement to the relief he seeks and dismissal with prejudice is appropriate. Posigian v. American Reliance Insurance Company, 549 So.2d 751 (Fla. 3rd DCA 1989).

ORDERED AND ADJUDGED that the defendant's motion to dismiss is granted, with prejudice.

DONE AND ORDERED in Chambers at the Charlotte County Justice Center in the City of Punta Gorda, and State of Florida, on this 7th day of February, 2003.

Margaret O. Steinbeck
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was furnished unto JOHN McCOMBS, 1215 Clearview Drive, Port Charlotte, Florida 33953, and PHILLIP J. JONES, Esquire, 18501 Murdock Circle, 6th Floor, Port Charlotte, Florida 33948, and MARK ALIFF, Esquire, Tax Section, PL-01 The Capitol,

Tallahassee, Florida 32399-1050, and JOHN L. POLK, Esquire, P.O. Box 511221, Punta Gorda, Florida 33951, by U.S. Mail on this 7th day of February, 2003.

N. Humphrery D.C.

SPECIAL MASTER EXEMPTION/ RECOMMENDATION

Petition No. H2001 Special Master: J. Geoffrey Pflugner

Petitioner: John McCombs Hearing Date & Time: 10/30/01 9a

Type of Exemption: Homestead: Late file Yes( ) No( )

Disabled

Widower

Other: Land Patent

Property ID# 0053038000 0005 & 005244800 00001

Appearances: Petitioner John McCombs

Property Appraiser: John Polk

Recommendation: XX Deny Petition

____ Grant Petition as follows:

I. FINDINGS OF FACT:

A. Petitioner claims total exemption by Federal law and under State law for real property ad valorem tax due to the fact that the Land Patent originally granting the land from the Federal government predated the ad valorem tax law of the State of Florida, and there was no proper "state action" to make the law applicable to his property.

B. Petitioner cites the "Doctrine of Pre-Emption", "Impairment of Contract", "Ex post Facto law", treaty law and "bill of attainder" as his basis for arguing the exemption.

C. The Property Appraiser refers to Article VIII, Section 4, Florida Constitution, F.S. Section 196.011 and 196.001 as the basis for the assessment.

II. CONCLUSIONS OF LAW:

A. General:

1. Every person who is entitled to an exemption on January 1, unless otherwise provided by law, must file an application for exemption with the Property Appraiser's Office on or before March 1.

2. The term "file" means received in the office of the County Property Appraiser's Office.

3. Any applicant who is qualified to receive any exemption and who fails to file an application by March 1, may file an application for the exemption and may file a petition with the VAB requesting that the exemption be granted. Such petition must be filed on or before the 25th day following the mailing of the notice from the Property Appraiser.

B. Statutes:

1. Florida Statute Sec. 196.011(7) provides as follows: "The...board shall grant an exemption for an otherwise eligible applicant if the applicant can clearly document that failure to apply by March 1 was the result of postal error."

2. Florida Statute Sec. 196.011(8) provides as follows: "Any applicant who is qualified to receive any exemption under subsection (1) and who fails to file an application by March 1, may file an application for the exception, and may file, pursuant to section 194 .011(3), a petition with the value adjustment board requesting the exemption be granted... Upon reviewing the petition, if the person is qualified to receive the exemption and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the exemption, this ... value adjustment board may grant the exemption.

3. The Florida Statutes contain exemptions from ad valorem property tax in Sections 196.081, 196.091, 196.196, 196.1975, 196.197, 196.198, 196.1985, 196.1986, 1961.199, 196.1993, 196.1995, 196.2001, 196.101 and 196.202.

C. Extenuating Circumstances:

The Florida courts have not specifically determined what are "particular extenuating circumstances" in the context of ad valorem real property taxation. In other areas, the following situations were found to be "extenuating circumstances".

1. Petitioner's own medical emergency,
2. Family emergency,
3. Ineffective assistant of legal counsel,
4. Action of an administrative agency that caused the petitioner to file late.

This list is not exhaustive, but contains the most common reasons. One additional factor is timing. If the opportunity to file on time was available, a choice not to file on time cannot be considered justifiable even in the presence of otherwise extenuating circumstances.

D. Burden of Proof:

1. The Property Appraiser is presumed by law to have correctly, i) assessed your property, ii) denied an exemption or iii) classified property as nonagricultural. By petitioning for a reduction of the Property Appraiser's assessment, exemption denial or classification determination, the initial burden is on the Petitioner to establish the Property Appraiser is not entitled to this Presumption of Correctness.

2. There are two methods that may overcome the Presumption of Correctness. First, it may be overcome by providing a preponderance of evidence that the Property Appraiser failed to properly consider one or more of the eight criteria listed in section 193.011 of the Florida Statutes, or the requirements to be granted an exemption or an agricultural classification. The Petitioner must prove that the Property Appraiser did not properly consider one or more of the criteria in 193.011, or the correct criteria for granting an exemption or an agricultural classification. It is not sufficient to show that the property appraiser considered the factor(s), but merely weighed them differently than the Petitioner. Second, that the Property Appraiser's assessment is arbitrarily based on appraisal practices which are

different from the appraisal practices generally applied by the Property Appraiser to comparable property within the same class and within the same county.

3. If the Petitioner overcomes the Presumption of Correctness, he must then prove by a preponderance of the evidence that the Property Appraiser's assessment is in excess of just value. "Just value" is legally synonymous with "fair market value".

4. Preponderance of evidence: Fifty-one percent (51%) of the probabilities are in Petitioner's favor.

III. FINAL FINDINGS AND RECOMMENDATIONS:

A. The concepts of bills of attainder and ex post facto laws are applicable only in the criminal context, or in the civil context when a new law imposes a punitive measure retroactively. Ad valorem taxes are not employed as an instrument of punishment; they are a valid, necessary revenue producing measure.

B. Petitioner argues that ad valorem taxes impair obligations imposed by contract. Petitioner seems to based this argument on the "contracts" in his chain of title that conveyed the property from owner to owner, from the time the property was owned by Spain, up to the present ownership vested in him. However, there is no indication in any of Petitioner's documents as to how any contractural obligations are being impaired. In each of the instruments, it is the Grantor's obligation to convey the property to the Grantee, and it is the Grantee's obligation to give consideration in return. Petitioner does not demonstrate how the imposition of property taxes prevents either of these obligations from being performed.

C. Petitioner claims that he should not have to pay property taxes because federal law preempts state law. Federal preemption is a valid concept, but Petitioner fails

to demonstrate how it applies to this situation. In order for this to be a valid argument, the United States would have to be engaged in collecting property taxes in the states, which it is not. In his examination of the Federal Constitution, Petitioner should have examined the 10th Amendment which reserves to the States those powers that are not specifically prohibited by the Constitution, or reserved to the federal government. This includes the power of the States to tax real property within their borders. Therefore, there is no federal preemption issue involved.

D. When the Legislature of Florida passed legislation in 1891 creating the ad valorem tax, it specifically exempted some property from taxation. Petitioner's property does not fit into any of these categories, but it seems that Petitioner may be trying to argues that his property falls under the category "all property of the United States and Florida". If this is the case, Petitioner is misapplying the exemption. This exemption applies only to property owned by United States or Florida contemporaneously with or after the passage of legislation. Petitioner's land had already and conveyed to a private owner by the time this legislation was passed. Simply because the land had once belonged to the United States or Florida, that does not make it exempt.

E. Petitioner has misinterpreted the definition of several of the terms he uses. He seems to put stock in the terms "freehold" and "fee simple", as used in the land patent, as if they mean that anyone holding land by fee simple or having a freehold estate is the sovereign of that land and cannot be taxed by the State or the United States. Freehold and fee simple referred to his title in the land. He does have absolute title over anyone else who attempts to possess the land. However, fee simple and

freehold do not mean he does not have to pay taxes. Taxes are an obligation that accompany ownership. Further, having a freehold estate or owning land in fee simple presents no defense to an action in foreclosure, where property is taken by the County to satisfy the landowner's tax debt, when the County has a valid lien on the property.

F. Petitioner states several times that his land is owned by him as an "allodium," which Blacks Law Dictionary defines as "Land held absolutely in one's own right, and not of any lord or superior; land not subject to feudal duties or burdens. An estate held by absolute ownership, without recognizing any superior to whom any duty is due on account thereof." Petitioner seems to think that this means that the land is not subject to taxation by the State of Florida. He has taken the term out of context. It is an old English term describing land held during the feudal system in England. Florida has never had the feudal system of government and therefore, this term would never be appropriate to describe property here. Taken out of the feudal context, it simply refers to land owned in fee simple, and no one is denying that Petitioner owns his land in fee simple.

G. The terms "condemnation" and "trespass" both refer to physical interference with the land, not interference by burdening the land with a tax obligation.

H. The laws of Florida provide for no total exemption for real property ad valorem taxation except a specifically set forth therein.

I. Petitioner failed to present any evidence of postal error or extenuating circumstances.

J. Petitioner failed to overcome the Property Appraiser's Presumption of Correctness

K. The Petitioner should be **DENIED.** S/Special Master

CLERK CHARLOTTE COUNTY
OR BOOK 02283 PAGE 1139

DECLARATION OF DOMICILE

To the Clerk of the Circuit Court (County Comptroller)
Charlotte County, Florida.

This is my declaration of domicile in the State of Florida that I am filing this day in accordance and in conformity with Section222.17 Florida Statutes.

For Domiciliaries of Florida state:
I hereby declare that I am domiciled in and maintain a place of abode at:

John Corbett McCombs
c/o non-domestic,
1215 Clearview Drive; near:
Port Charlotte, Florida state [33953-2605]
Township 40 South, Range 21 East, Section 9N.

Which place of abode I recognize and intend to maintain as my permanent home and, if I maintain another place or places of abode in some other state or states, I hereby declare that my above-described domicile and abode in Florida state constitutes my predominant and principal home, and I intend to continue it permanently as such. I am, at the time of making this declaration, a bona fide Citizen of Florida state residing at:

John Corbett McCombs
c/o non-domestic,
1215 Clearview Drive; near:
Port Charlotte, Florida state [33953-2605]
Port Charlotte Subdivision Section 48,Block 2649,Lots 7,8,9,

Section 48, Block 2623, Lots 16 and 17.
"Citizenship"and"domicile" are synonymous terms.-Blacks Law Dictionary. The undersigned hereby declares that he is not a U.S. citizen (the corporation), but he is a Florida state Citizen (the republic).

John Corbett McCombs
(signature)

Sworn to and subscribed before me this 8th date of August, 2003.

NOTARY SEAL Mary P. Jaeger
Signature of Notary Public State of Florida
Type of identification produced: FDL

Page 102

TREATY OF AMITY, SETTLEMENT AND LIMITS.
(Between Spain and United States)

The Florida's were ceded by Spain to the United States under the Treaty of Amity, Settlement and Limits, entered into by and between Spain and the United States. This treaty was dated February 22, 1819, ratified and confirmed by the king of Spain on October 24, 1820, and by the Senate of the United States on February 19, 1821, and by the president of the United States on February 22, 1821. The proclamation of the President, which contains a full copy of the treaty, is as follows:

By the President of the United States.
A Proclamation.

WHEREAS a treaty of Amity, Settlement and Limits, between the United States of America, and his Catholic Majesty, was concluded and signed between their Plenipotentiaries in this city, on the twenty-second day of February, and the year of our Lord, one thousand eight hundred and nineteen, which treaty, word for word, is as follows:

Treaty of Amity, Settlement and Limits.
(Between the United States of America and his Catholic Majesty)

The United States of America and his Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a Treaty, which shall designate, with precision, the limits' of their respective bordering territories in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the United States; and his Catholic Majesty has appointed the most excellent Lord Don Luis De Onis, Gonzales, Lopez y Vara, Lord of the town of Rayaces, perpetual Regidor of the Corporation of the City of Salamanca, Knight Grand-Cross of the Royal American Order of Isabella the Catholic, decorated with the Lys of La Vendee, Knight Pensioner of the Royal and distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said Royal Order, of the Council of his Catholic Majesty; his Secretary, with the Exercise of Degrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

ARTICLE I.

There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and his Catholic Majesty, his successors and the subjects, without exception of persons or places.

ARTICLE II.

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to

him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of the said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States, duly authorized to receive them.

ARTICLE III.

The boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Nachitoches, or Red River; then following the course of the Rio Roxo westward, to the degree of longitude 100 west from London and 23 from Washington; then crossing the said Red River, and running thence, by a line due north to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its parallel of latitude, to the South Sea, The whole being, as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But, if the source of the Arkansas River shall be found to fall north or south of latitude 42, then the line shall run from the said source due south or north, is the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the South Sea: All the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus [103] described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the

said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations.

The two high contracting parties agree to cede and renounce all of their rights, claims, and pretensions, to the territories prescribed by the said line; that is to say, the United States cede to his Catholic Majesty, and renounce forever, all of their rights, claims, and pretensions to the territories lying west and south of the above described line; and, in like manner, his Catholic Majesty cedes to the said United States, all his rights, claims, and pretensions, to any territories and east and north of the said line; and for himself, his heirs, and successors, renounces all claim to the said territories forever.

ARTICLE IV.

To fix this line with more precision, and to place the landmarks which shall designate exactly the limits of both nations, each of the contracting parties shall appoint a Commissioner and a Surveyor, who shall meet before the termination of one year, from the date of the ratification of this treaty, at Nachitoches, on the Red River, and proceed to run and mark the said line, from the mouth of the Sabine to the Red River, and from the Red River to the river Arkansas, and to ascertain the latitude of the source of the said river Arkansas, in conformity to what is above agreed upon and stipulated, and the line of latitude 42, to the South Sea; they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree respecting the necessary articles to be furnished to those

persons, and also as to their respective escorts, should such be deemed necessary.

ARTICLE V.

The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions, shall be permitted to sell or export their effects, at any time whatever, without being subject, in either case, to duties.

ARTICLE VI.

The inhabitants of the territories which his Catholic Majesty cedes to the United States, by this Treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.

ARTICLE VII.

The officers and the troops of his Catholic Majesty, in the territories hereby ceded by him to the United States, shall be withdrawn, and possession of the places occupied by them shall be given within six months after the exchange of the ratifications of this Treaty, or sooner, if possible, by the officers of his Catholic Majesty, to the commissioners or officers of the United States, duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops, and their baggage, to the Havana.

ARTICLE VIII.

All the grants of land made before the 24th of January, 1818, by his Catholic Majesty, or by his lawful authorities, in the said territories ceded by his Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the territories had remained under the dominion of his Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this treaty; in default of which, the said grants shall be null and void. All grants made since the said 24th of January, 1818, when the first proposal, on the part of his Catholic Majesty, for the cession of the Floridas, was made, are hereby declared, and agreed to be, null and void.

ARTICLE IX.

The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries which they, themselves, as well as their respective citizens and subjects, may have suffered until the time of signing this Treaty.

The renunciation of the United States will extend to all the injuries mentioned in the Convention of the 11th of August, 1802.

2. To all claims on account of prizes made by French privateers, and condemned by French consuls, within the territory and jurisdiction of Spain.

2. To all claims of indemnities on account of the suspension of the right of deposit at New Orleans, in 1802.
3. To all claims of the citizens of the United States upon the government of Spain, arising from the unlawful seizures at sea, and in the ports and territories of Spain, or the Spanish colonies.
4. To all claims of citizens of the United States upon the Spanish government, statements of which, soliciting the interposition of the government of the United States, have been [104] presented to the Department of State, or to the Minister of the United States in Spain, since the date of the Convention of 1802, and until the signature of this Treaty.

The renunciation of his Catholic Majesty extends:

1. To all the injuries mentioned in the convention of the 11th of August, 1802.
2. To the sounds of which his Catholic Majesty advanced for the return of Captain Pike from the Provencias Internas.
3. To all injuries caused by the expedition of Miranda, that was fitted out and equipped at New York.
4. To all claims of the Spanish subjects upon the government of the United States, arising from unlawful seizures at sea, or within the ports and territorial jurisdiction of the United States.

Finally, to all the claims of subjects of his Catholic Majesty upon the government of the United States, in which the interposition of his Catholic Majesty's government has been solicited, before the date of this Treaty, and since the date of the Convention of 1802, or which may have been made to the Department of Foreign Affairs of his Majesty, or to his Minister in the United States:

And the high contracting parties, respectively, renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers, and individual Spanish inhabitants, by the late operations of the American army in Florida.

ARTICLE X.

The Convention entered into between the two Governments, on the 11th of August, 1802, the ratifications of which were exchanged the 21st December, 1818, is annulled.

ARTICLE XI.

The United States, exonerating Spain from all demands in future, on account of the claims of their citizens to which the renunciations herein contained extend, and considering them entirely canceled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a Commission, to consist of three Commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which Commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of, all the claims included within the descriptions above mentioned. The said the Commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties; and, in case of the death, sickness, or necessary

absence, of any such Commissioner, his place may be supplied by the appointment, as aforesaid, or by the President of the United States, during the recess of the Senate, of another Commissioner and his stead. The said Commissioners shall be authorized to hear and examine on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the Treaty, between the two parties, of 27th, October, 1795; the said documents to be specified, and demanded, at the instance of the said Commissioners.

The payment of such claims as may be admitted and adjusted by the said Commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the United States, either immediately at their Treasury, or by the creation of stock bearing and interest of six per cent per annum, payable from the proceeds of sale of public lands within the Territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribed by law.

The records of the proceedings of the said Commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish government, if required, at the demand of the Spanish Minister in the United States.

ARTICLE XII.

The Treaty of limits and navigation, of 1795, remains confirmed in all, and each one of its articles, excepting the 2, 3, 4, 21, in the second clause of the 22d article, which, having been altered by this Treaty, or having received their entire execution, are no longer valid.

With respect to the 15th article of the same Treaty of Friendship, Limits and Navigation of 1795, in which it is stipulated that the flag shall cover the property, the two by contracting parties agree that this shall be so understood with respect to those powers who recognize this principle; but, if neither of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose government acknowledges this principle, and not of others.

ARTICLE XIII.

Both contracting parties, wishing to favor their mutual commerce, by affording me in their ports every necessary assistance to their [105] respective merchant vessels, have agreed, that the sailors who shall desert from their vessels in the ports of the other, shall be arrested and delivered up, at the insistence of the consul, who shall prove, nevertheless, that the deserters belonged to the vessels that claim them, exhibiting the document that is customary in their nation; that is to say, the American consul in a Spanish port, shall exhibit the document known by the name of the articles; and the Spanish consul in American ports, the roll of the vessel; and if the name of the deserter or deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

ARTICLE XIV.

The United States hereby certify that they have not received any compensation from France, for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in the ports of Spain, for the satisfaction of which provision is made by this Treaty; and they will present an authentic statement of the prizes made, and of their true value, that Spain men avail herself of the same, in such manner as she may deem just and proper.

ARTICLE XV.

The United States to give his Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor the commerce of the subjects of his Catholic Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth or manufacture, directly from the ports of Spain, or of her colonies, shall be admitted, for the term of 12 years, to the ports of Pensacola and St. Augustine, in the Florida's, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States. During the said term, no other nation shall enjoy the same privileges within the ceded Territories. The twelve years shall commence three months after the exchange of the ratifications of this Treaty.

ARTICLE XVI.

The present Treaty shall be ratified in due form, by the contracting parties, and the ratifications shall be exchanged in six months from this time, or sooner, if possible.

In witness whereof, we, the underwritten Plenipotentiaries of the United States of America and of his Catholic Majesty, have signed, by virtue of our powers, the present Treaty of

Amity, Settlement, and Limits, and have thereunto affixed our seals, respectively.

Done at Washington, this twenty-second day of February, one thousand eight hundred and nineteen.

JOHN QUINCY ADAMS, (L.S.)

LUIS DE ONIS, (L.S.)

And whereas his said Catholic Majesty did, on the twenty-fourth day of October, and the year of our Lord one thousand eight hundred and twenty, ratify and confirm the said treaty, which ratification is in the words and of the tenor following:

"Ferdinand the Seventh, by the Grace of God, and by the Constitution of the Spanish monarchy, king of the Spains."

"Whereas, on the twenty-second day of February, of the year one thousand eight hundred and nineteen last past, a treaty was concluded and signed in the City of Washington, between Don Louis de Onis, my Envoy Extraordinary and Minister Plenipotentiary, and John Quincy Adams, Esquire, Secretary of State of the United States of America, competently authorized by both parties, consisting of sixteen articles, which had for their object the arrangement of differences and of limits between both governments and their respective territories; which are of the following form and literal tenor:

(Here follows the above Treaty, word for word.)

"Therefore, having seen and examined the sixteen articles aforesaid, and having first obtained the consent and authority of the General Cortes of the nation with respect to the cession mentioned in stipulated in the 2d and 3d articles, by a proof and ratify all and every one of the articles referred to, and the clauses which are contained in them; and in virtue of these presents, I approve and ratify them; promising, on the faith and word of a King, to execute and observe them, and cause

them to be executed and observed entirely as if I myself had signed them: and that the circumstance of having exceeded the term of six months, fixed for the exchange of the ratifications in the 16th article may afford no obstacle in any manner, it is my deliberate will that the present ratification be as valid and firm, and produce the same effect, as if it had been done within the determined period. Desirous at the same time of avoiding any doubt or ambiguity concerning the meaning and of the 8th article of the said treaty, in respect to the date which is pointed out in it as the period for the confirmation of the grants of lands in the Floridas, made by me, or by the competent authorities in my royal name, which point of date was fixed in the positive understanding of the three grants of land made in favor of the Duke of Alagon, the Count of Punonrostro, and Don Pedro de Vargas, being annulled by its tenor, I think proper to declare that the said three grants have remained and do remain entirely annulled and invalid; and that neither the three individuals mentioned, nor those who may have title or interests through them, can avail themselves of the said grants at any time, or in any manner: under which explicit declaration the said 8th article is to be understood as ratified. In the faith of all which I have commanded to dispatch these presents. Signed by my hand, sealed with my secret seal, and [106] countersigned by the underwritten my Secretary of Despatch of State.

"Given at Madrid, the twenty-fourth of October, one thousand eight hundred and twenty.

(Signed.) FERNANDO.

(Countersigned.) Estivaro Perez de Castro."

And whereas the Senate of the United States did, on the nineteenth day of the present month, advise and consent to the ratification, on the part of these United States, of the said treaty, in the following words.

In Senate of the United States,
February 19th, 1821.

"Resolved, two thirds of the Senators present concurring therein, That the Senate, having examined the Treaty of Amity, Settlement and Limits, between the United States of America, and his Catholic Majesty, made and concluded on the twenty second of February, one thousand eight hundred and nineteen, and seen and considered the ratification thereof made by his Catholic Majesty, on the twenty fourth day of October, one thousand eight hundred and twenty, do consent to, and advise the President of the United States to ratify the same."

And whereas in pursuance of the said advice and consent of the senate of the United States, I have ratified and confirmed the said Treaty in the words following, viz;

"Now, therefore, I, James Monroe, President of United States of America, having seen and considered the treaty above recited, together with the ratification of his Catholic Majesty thereof, do in pursuance of the aforesaid advice and consent of the Senate of the United States by these presents, accept, ratify, and confirm the said treaty, and every clause and article thereof, as the same are herein before set forth.

In faith whereof, I have caused the seal of the United States of America to be hereunto affixed.

Given under my hand, at the City of Washington, this twenty-second day of February, in the year of our Lord, one thousand eight hundred and twenty-one, and of the Independence of the United States, the forty-fifth.

JAMES MONROE

By the President:
John Quincy Adams,
Secretary of State.

And whereas the said ratifications, on the part of the United States, and of his Catholic Majesty, have been this

day, duly exchanged, at Washington, by John Quincy Adams, Secretary of State of the United States, and by General Don Francisco Dionisio Vives, Envoy Extraordinary, and Minister Plenipotentiary of his Catholic Majesty: Now therefore, to the end that the said treaty may be observed and performed with good faith, on the part of the United States, I have caused the premises to be made public; and I do hereby enjoin and require all persons bearing office, civil or military, within the United States, and all others, citizens or inhabitants thereof, or being within the same, faithfully to observe and fulfill the said treaty, and every clause and article thereof.

In testimony whereof, I have caused the seal of the United States to be affixed to these presents, and signed the same with my hand.

Done at the city of Washington, the twenty-second of February, and the year of our Lord one thousand eight hundred and twenty-one, and of the Sovereignty and Independence of the United States the forty-fifth.

JAMES MONROE

By the President:
John Quincy Adams,
Secretary of State."

Chap. LXXXIV. – An Act to enable the State of Arkansas and other States to reclaim the "Swamp Lands" within their limits. September 28, 1850.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands, made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State.

Sec. 2. And be it further enacted, That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the governor of the State of Arkansas, and, at the request of said governor, cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the legislature thereof: Provided, however, That the proceeds of said lands, whether from sale or by direct appropriation and kind, shall be applied, exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid.

Sec. 3. And be it further enacted, That in making out a list and plats of the land aforesaid, all legal subdivisions, the greater part of which is "wet and unfit for cultivation," shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

FLORIDA ASSENTS TO ADMISSION INTO THE UNION

Page 134

Chapter 14

AN ACT declaring the assent of the State of Florida to the terms of admission into the confederacy and Union.

Section 1. Be it enacted by the Senate and House of Representatives in General Assembly convened, That the State of Florida makes the declaration of its assent to the terms of admission of this State and to the confederacy and Union and of the United States and to the provisions of the acts of Congress respecting the public lands of the United States in this State agreeably to the 6th clause of the 17th article of the Constitution of this State.

Approved July 25, 1845.

1838 FLORIDA CONSTITUTION, ARTICLE 17. Pg.145

Sec. 6. The General Assembly shall have power, by the votes of two-thirds of both houses, to acceede to such propositions as may be made by the Congress of the United States upon the admission of the State of Florida into the national confederacy and Union, if they shall be deemed reasonable and just, and to make declaration of such assent by law; and such declaration, when made, shall be binding upon the people and the State of Florida as a compact; and the governor of the State of Florida shall notify the President of United States of the acts of the general assembly relating thereto; and in case of declining to acceede to such propositions, or any part thereof, the General assembly shall instruct the senators and representatives of the State of Florida in Congress to procure such modification or alteration thereof as may be deemed to reasonable and just, and assent thereto, subject to the ratification of the general assembly by law aforesaid.

LAND PATENT NUMBER 7.
Charlotte Co. OR BOOK 1752 PAGE 1615

The United States of America

No. 7

To all whom these presents shall come; greeting:

Whereas, by the act of Congress approved September 28, 1850, entitled "An Act to enable the State of Arkansas and other States to reclaim the Swamp Lands within their limits" it is provided that all the "Swamp and Overflowed Lands" made unfit thereby for cultivation within the State of Florida which remained unsold at the passage of Said Act, Shall be granted to Said State, And Whereas in pursuance of instructions from the General Land Office of the United States, the Several tracts or parcels of Land hereinafter described have been Selected as Swamp and Overflowed Lands inuring to the Said State under the Act aforesaid being Situated in the District of Lands subject to sale at Tampa, Florida, to wit:

... Township 40 South of Range 21 East,

... The East half, the North West quarter, the North East quarter of the South West quarter, and the South West quarter of the South West quarter of Section 9: ...;

according to the Official Plats of Survey of the Said Lands returned to the General Land Office by the Surveyor General, and for which the Governor of the Said State of Florida did on the twenty Seventh day of May one thousand eight hundred and fifty Six, request a Patent to be issued to the Said State as required in the aforesaid Act;

Now therefore Know ye That the United States of America in consideration of the premises and in conformity with the Act of Congress aforesaid Have Given and Granted and by these presents Do Give and Grant unto the Said State

of Florida in fee Simple subject to the disposal of the Legislature whereof the tracts of Land above described,

To have and to hold the Same, together with all the rights privileges immunities and appurtenances thereto belonging unto the Said State of Florida in fee Simple and to its assigns forever.

In testimony Whereof I, Franklin Pierce President of the United States of America have caused these letters to be made Patent and this seal of the General Land to be hereunto affixed.

Given under my hand at the City of Washington the Sixth day of November, in the year of our Lord, one thousand eight hundred and fifty Six, and of the Independence of the united States the Eighty first.

By the President Franklin Pierce.

By W. B. Baldwin, Asst. Secretary.

INTERNAL IMPROVEMENT FUND, STATE OF FLA.

DEED NO. 11844

WHEREAS, The Trustees of the Internal Improvement Fund of the State of Florida under the terms of the agreement of sale and purchase made between the said Trustees and Hamilton Disston, of this City and County of Philadelphia and the State of Pennsylvania, bearing date the first day of June, eighteen hundred and eighty-one, for the consideration of One Million Dollars therein stipulated to be paid, and upon the terms and conditions therein mentioned and recited, agreed for themselves and their successors in office to sell and convey by good and sufficient deeds, conveyances and assurances to the said Hamilton Disston and his Associates, or to such person or persons as he might direct or appoint, an **absolute, indefeasible estate in fee simple** to Four Million Acres of Land of the lands of said Internal Improvement Fund acquired by the State of Florida under the Act of Congress of September twenty-eight, eighteen hundred and fifty; *And, Whereas,* The said Hamilton Disston has directed and appointed Sir Edward James Reed, of England, is the person to whom the title shall be made to the lands hereinafter described, being part of said Four Million Acres, and has requested and directed the said Trustees to make title to the same to the said Sir Edward James Reed; *And, Whereas,* The One Million Dollars, the purchase-money for the said Four Million Acres of Land, has been paid in full to the Trustees of the Internal Improvement Fund of the State of Florida, the receipt whereof is hereby acknowledged:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, That the undersigned, the Trustees of the

Internal Improvement Fund of the State of Florida, under an Act of the General Assembly of said State, entitled "An Act to Provide for and Encourage a Liberal System of Internal Improvements in this State," approved January sixth, eighteen hundred and fifty-five, for and in consideration of the premises, have granted, bargained and sold, and by these presents do grant, bargain, sell and convey unto the said Sir Edward James Reed, and his heirs and assigns, the following described lands, to-wit:-

...The east half, the northwest quarter, the northeast quarter of the southwest quarter, and the southwest quarter of the southwest quarter of section nine;...;
in township forty, south, of range twenty-one, east. ...

...Containing in the aggregate two hundred and seventy-eight thousand eight hundred and fifteen acres and eighty-six hundredths of an acre, and situate, lying and being in the county of Manatee, in said State of Florida, TO HAVE AND TO HOLD the said lands unto the said Sir Edward James Reed, and to his heirs and assigns, forever.

In Testimony Whereof, The said Trustees have hereunto subscribed their names and affixed their seals, and have caused this seal of the Florida State Land Office to be hereunto affixed, at the Capitol, and the City of Tallahassee, on this, the fifth day of March A.D. eighteen hundred and eighty-three.

(Signatures and seals)
W.D. Bloxham, Governor.
W.D. Barnes, Comptroller.
Henry A. L'Engle, Treasurer.
Geo. P. Raney, Attorney-General.
P.W. White, Commissioner of Lands
and Immigration.

Charlotte Co. OR BOOK 1945 PAGE 0437
OR BOOK 1752 PAGE 1620-1621

LAND PATENT TITLE ABSTRACT

1) President Franklin Pierce to Florida; November 6, 1856
Patent #7

2) Florida to Sir Edward James Reed (Book 2, page 201)
(The Florida Land and Mortgage Co. Ltd.) Sept. 28, 1883

3) Sir Edward James Reed to Myakka River Land Co.
(17-515) October 28, 1890

4) Myakka River Land Co. to Henry Lawrence Horton
(47-474) December 26, 1902

5) Henry Lawrence Horton to Southern Investment Company
(47-477) April 9, 1903

6) Southern Investment Company to Manasota Land and
Timber Company (#24164) August 22, 1917

7) Manasota Land and Timber Company to White Beach
Fruit Co. (#6621 13-22) October 23, 1925

8) White Beach Fruit Co. to Lemon Bay Holding Company
(#16003) February 7, 1927

9) Lemon Bay Holding Company to A. C. Frizzell
(#23265) April 29, 1940

10) A. C. Frizzell to Florida West Coast Land Development
Company (#38446) September 21, 1954

11) Florida West Coast Land Co. to General Development Corp. (#47919, 47920) January 16, 1958
(#46245) August 23, 1957

12) General Development Corp. to Harold & Lila Pearson
(397-610) March 28, 1972

13) Lila L. Pearson to Francis J. and Eleanor L. Burns
(603-2102) May 9, 1979

14) Francis and Eleanor Burns to John C. McCombs
(784-1167) July 24, 1984

12a) General Development Corp. to John R. & Georganna T. Kennedy Jr. (303-658) November 26, 1968

13a) John and Georganna Kennedy to Anna May Kennedy
(370-553) July 30, 1971

14a) Anna May Kennedy to John C. McCombs
(845-745) November 13, 1985

12b) General Development Corp. to Doris Mary Cameron, Terry J. Heeter, & Ken J. Heeter (614-1001) June 22, 1979

13b) Doris Mary Cameron, et al., to John C. McCombs
(1042-759) June 3, 1989

12c) General Development Corp. to Robert A. & Janet Potts
(341-63) July 27, 1970

13c) Robert and Janet Potts to John C. McCombs
(1290-843) July 19, 1993

12d) General Development Corp. to William E. and Jenny R. Brame (340-573) July 17, 1970

13d) Tax Deed, Charlotte Co. to Ray and Veronica Kaiser (1205-1963) May 23, 1985

14d) Ray and Veronica Kaiser to John McCombs (1229-1783) July 29, 1992

All documents referred to above are in Land Patent holders possession, (and all are certified copies).

signature of John Corbett McCombs

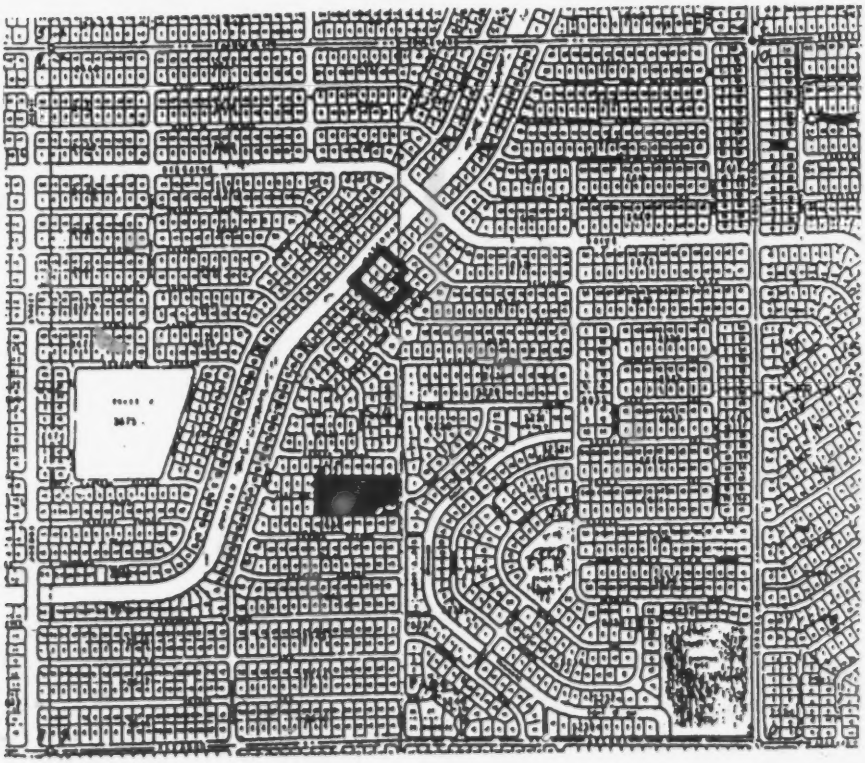
MAP

Charlotte County OR BOOK 1752 PAGE 1622

General Land Office, by Surveyor General *U.S.G.S.*
Section 9, Township 40 south, Range 21 east

Florida Official Records, Charlotte County (Plat Book 5, page 62)
Section 48, Lot 7, Block 2649
Section 48, Lot 8, Block 2649
Section 48, Lot 9, Block 2649
Section 48, Lot 16, Block 2623
Section 48, Lot 17, Block 2623

(MAP OF NORTH ½ OF SECTION NINE)



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BEST AVAILABLE COPY

Charlotte County OR BOOK 1878 PAGE 0334
RECORDING REQUESTED BY
John Corbett McCombs
AND WHEN RECORDED MAIL TO

John Corbett McCombs
c/o non-domestic
1215 Clearview Drive; near:
Port Charlotte
Florida
(33953)

DECLARATION OF ACCEPTANCE

OF LAND PATENT ASSIGNMENT

Patent Number: 7

KNOW ALL MEN BY THESE PRESENTS: That, John Corbett McCombs, does certify and declare as follows: That he accepts the assignment of all Rights pertaining to the below described Land including but not limited to the Land Patent secured rights named within the Land Patent, named above.

(1) THE LAND PATENT SECURED LAND: The character of said property so secured by said Land Patent, together with all the rights, privileges, immunities, and appurtenances of whatsoever nature, thereunto belonging, is here legally described and referenced as:

"Lot 7, 8, and 9 of block 2649; and Lot 16 and 17 of block 2623, of PORT CHARLOTTE SUBDIVISION, Section 48."

(2) NOTICE AND EFFECT OF A LAND PATENT. A grant of land is a public law standing on the statute books of the State, and is notice to every subsequent purchaser under any conflicting sale made afterward: Wineman v. Gastrell, 54 Fed. 819, 4 CCA 596, 2 U.S. App. 581. A patent alone passes title to the Grantee: Wilcox v. Jackson, 12 Pet.(U.S.) 498, 10

L.Ed. 264. All questions of fact decided by the General Land Office are binding everywhere, and injunctions and mandamus proceedings will not lie against it. Litchfield v. Register, 9 Wall(U.S.) 575, 19 L.Ed. 681.

Where the United States has parted with title by a patent legally issued and upon surveys legally made by itself and approved by the proper department, the title so granted cannot be impaired by any subsequent survey made by the government for its own purposes: Cage v. Danks, 13 La. Ann. 128.

(3) LAND TITLE AND TRANSFER. The existing system of land transfer is a long and tedious process involving the observance of many formalities and technicalities, of failure to observe any one of which may defeat title, even where these have been traced to its source, the purchaser must but at his peril, there always being, in spite of the utmost care and expenditure, the possibility that his title may turn out bad: Yeakle, Torrens System 209.

If said assignment of the related Land Patent is not properly challenged within sixty days (60), in a court of law, it stands as a certainty, because no other party has followed the proper steps to secure lawful title. The final certificate or receipt acknowledging the payment in full by a homesteader or preemptor is not in legal effect a conveyance of land, U.S. v. Steenerson, 50 Fed. 504, 1 CCA 552, 4 U.S. App. 332.

Wherefore, said Land Patent secured Rights stand as assigned forever secured in accord with the terms set in said Land Patent signed and sealed under the signature of the President of the United States of America.

(signature of affirmation of John Corbett McCombs)
(signature and seal of Florida Notary Public)

LAWS OF THE STATE OF FLORIDA,
Adopted by the
LEGISLATURE of FLORIDA, at its REGULAR SESSION,
1891, under the constitution of A.D. 1885.

Chapter 4010. – [No. 1.]

AN ACT for the Assessment and Collection of Revenue.

Be it enacted by the Legislature of the State of Florida:

Section 1. That all property, real and personal, in this State, not hereby expressly except therefrom, shall be subject to taxation in the manner provided by law.

Sec. 2. Real property for the purpose of taxation shall be construed to include land and all buildings, fixtures and other improvements thereon, and the terms land in real estate, when used in this chapter, shall be construed as having the same meaning as the term real property.

Sec. 3. The terms personal property and personal estate, as used in this chapter, shall have the same meaning, and shall, for the purpose of taxation, be construed to include all goods and chattels, moneys and effects; all boats and vessels, whether at home or abroad; all debts due or to become due from solvent debtors, whether on account, contract, note or otherwise; all public stocks or shares in all incorporated or unincorporated companies.

Sec. 4. The following property shall be exempt from taxation:

First. All property, real and personal, of the United States and of this State.

Second. All public property of the several counties, cities, villages, towns and school districts in this State used or intended for public purposes, except lands certified for taxes for the use of any of said counties, cities, villages, towns, etc.

Whitfield's Notes- Legal Historical Background of the State of Florida pages 135-136

CONSTITUTION OF 1838

Constitution, or Form of Government, for the
PEOPLE OF FLORIDA, 1838.

We the people of the Territory of Florida, by our Delegates in Convention, assembled at the city of St. Joseph, on Monday the 3d day of December, A.D. 1838, and of the Independence of the United States the sixty-third year, having and claiming the right of admission into the Union as one of the United States of America, consistent with the principles of the Federal Constitution, and by virtue of the Treaty of Amity, Settlement and Limits between the United States of America and the king of Spain, ceding the Province of East and West Florida to the United States; in order to secure to ourselves and our posterity, the enjoyment of all the rights of life, liberty and property, and the pursuit of happiness, do mutually agree, each with the other to form ourselves into a free and independent State, by the name of the State of Florida.

ARTICLE I.

Declaration of Rights.

That the great and essential principles of liberty and free government, may be recognized and established, we declare:

1. That all freemen, when they form a social compact, are equal; and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty; of acquiring, possessing and protecting property and reputation; and of pursuing and of their own happiness.

2. That all political power is inherent in the people, and all free governments are founded on their authority, and established for their benefit; and therefore they have at all times an inalienable and indefeasible right, to alter or abolish

their form of government, in such manner as they may deem expedient.

3. That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own conscience; and that no preference shall ever be given by law, to any religious establishment, or mode of worship in this State.

4. That all elections shall be free and equal; and that no property qualification for eligibility to office, or for the right of suffrage, shall ever be required in this State.

5. That every citizen may freely speak, write and publish his sentiments, on all subjects; being reasonable for the abuse of that liberty; and no law shall ever be passed to curtail, abridge, or restrain, the liberty of speech, or of the press.

6. That the right of trial by jury, shall forever remain inviolate.

7. That the people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches; and that no warrant to search any place, or to seize any person, or thing, shall issue without describing the place to be searched, and the person or thing to be seized, as nearly as may be, nor without probable cause, supported by oath, or affirmation.

8. That no freemen shall be taken, imprisoned, or disseized of his freehold, liberties, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land.

9. That all courts shall be open, and every person for an injury done him, in his lands, goods, person, or reputation, shall have remedy by due course of law; and right, and justice, administered without sale, denial, or delay.

10. That in all criminal prosecutions, the accused hath a right to be heard, by himself, or council, or both; to demand the nature and cause of the accusation; to be confronted with

the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and in all prosecutions by indictment, or presentment, a speedy and public trial, by an impartial jury of the County, or District, where the offense was committed; and shall not be compelled to give evidence against himself.

11. That all persons shall be bailable, by sufficient securities, unless in capital offenses, where the proof is evident, or the presumption is strong; and the habeas corpus shall not be suspended, unless when in case of rebellion, or invasion, the public safety may require it.

12. That excessive bail shall in no case be required; nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

13. That no person shall for the same offense, the twice put in jeopardy of life, or limb.

14. That private property shall not be taken, or applied to public use; unless just compensation be made therefore.

15. That in all prosecutions and indictments for libel, the truth may be given in evidence; and if it shall appear to the jury, that the liable is true, and published with good motives, and for justifiable ends, the truth shall be a justification; and the jury shall be the judges of the law, and facts.

16. That no person shall be put to answer any criminal charge, but by presentment, indictment, or impeachment.

17. That no conviction shall work corruption of blood, or forfeiture of estate.

18. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared penal, or criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no ex post facto law shall ever be made.

19. That no law impairing the obligation of contracts shall ever be passed.

20. That the people have a right, in a peaceable manner, to assemble together to consult for the common good; and to apply to those invested with the powers of government, for redress of grievances, or other proper purposes, by petition, address, or remonstrance.

21. That free white men of this State, shall have a right to keep and to bear arms, for their common defense.

22. That no soldier in the time of peace, shall be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.

23. That no standing army shall be kept up without the consent of the Legislature: and the military shall in all cases, and at all times, be in strict subordination to the civil power.

24. That perpetuities and monopolies, are contrary to the genius of a free State, and ought not to be allowed.

25. That no hereditary emoluments, privileges, or honors, shall ever be granted or conferred in this State.

26. That frequent recurrence to fundamental principles, is absolutely necessary, to preserve the blessings of liberty.

27. That to guard against transgressions upon the rights of the people; we declare that everything in this article, is excepted out of the general powers of government, and shall forever remain inviolate; and that all laws contrary thereto, or to the following provisions, shall be void.